THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.25700 OF 2005

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Dated: 01-12-2005

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Between

Smt M. Vijayalaxmi, W/o. M. Krishnam Raju, R/o. 1-37, Akkayapalli, Ravindranagar Post, Kadapa, Kadapa District.

...PETITIONER

AND

The Commissioner, Kadapa Municipal Corporation, Kadapa.

...RESPONDENT

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondent in seeking to demolish the portion of her house bearing No.1/37, Akkayapalli, Ravindranagar, Kadapa, Kadapa District, for the purpose of widening of the existing road without initiating any proceedings under the law, either under the Land Acquisition Act
(for short 'the Act') or Municipal Corporation Act without paying any compensation for the value of the land and structures coming under the road widening as illegal and arbitrary.

Learned counsel for the petitioner submits that she is the owner and possessor of the said house and recently the Government of Andhra Pradesh declared the Kadapa municipality into Municipal Corporation. As there is need for road widening the respondent without acquiring the land and without paying any compensation, is threatening to demolish the house of the petitioner without following the due procedure under the Municipal Corporation

Act.

Under the Municipal Corporation Act the property of the petitioner cannot be acquired without following the due procedure prescribed. But it is open for the respondent to take any portion of the land of the petitioner either by paying compensation for the value of the land or by way of negotiations and if the petitioner is not agreeing to the private negotiations, the respondent can initiate proceedings under the Land Acquisition Act.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing the respondent not to demolish the portion of the house of the petitioner without initiating any proceedings under the law, either under the Land Acquisition Act or Municipal Corporation Act without paying compensation for the value of the land and structures.

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V. ESWARAIAH, J

December 1, 2005

Note: Furnish C.C. of the order by 03.12.2005

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DSK